

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

3 **TIMOTHY M. McDOWELL, M.D.**

4 Holder of License No. 31063
5 For the Practice of Allopathic Medicine
6 In the State of Arizona.

Case No. MD-09-1537A

**ORDER FOR LICENSE REACTIVATION,
PROBATION, AND CONSENT TO THE
SAME**

7 Timothy M. McDowell, M.D. ("Respondent") elects to permanently waive any right to a
8 hearing and appeal with respect to this Order for Probation; admits the jurisdiction of the Arizona
9 Medical Board ("Board"); and consents to the entry of this Order by the Board.

10 **FINDINGS OF FACT**

11 1. The Board is the duly constituted authority for the regulation and control of the
12 practice of allopathic medicine in the State of Arizona.

13 2. Respondent is the holder of license number 31063 for the practice of allopathic
14 medicine in the State of Arizona.

15 3. The Board initiated case number MD-09-1537A after Respondent reported that he
16 received a traffic citation for driving under the influence of alcohol.

17 4. On October 24, 2005, Respondent entered into a confidential Stipulated
18 Rehabilitation Agreement (SRA), which was terminated on January 21, 2009; however,
19 Respondent was still subject to random drug and alcohol screen testing. On August 30, 2009,
20 Respondent reported that he received a traffic citation for driving under the influence of alcohol. On
21 August 31, 2009, Respondent signed a request to inactivate his license with cause because his
22 SRA for substance abuse terminated in 2009 and he had relapsed pursuant to A.R.S. §1452(F).

23 5. On November 25, 2009, Respondent successfully completed long-term residential
24 treatment. On December 1, 2009, Respondent met with the Board's Addiction Medicine Contractor
25 who recommended that Respondent participate in the Board's

1 Monitored Aftercare Program (MAP) and stated that the Respondent was safe to return to practice.
2 On that same date, Respondent requested reactivation of his license.

3 6. On December 9, 2009, Respondent entered into an Interim Order to Participate in
4 MAP and is in compliance with that Order. Board staff recommends that Respondent's license be
5 reactivated and he be placed in MAP under a final Board Order.

6 **CONCLUSIONS OF LAW**

7 1. The Arizona Medical Board possesses jurisdiction over the subject matter hereof
8 and over Respondent.

9 2. The Board has received substantial evidence supporting the Findings of Fact
10 described above and said findings require the Board to either refer the matter for formal hearing to
11 revoke Respondent's license or reactive Respondent's license and place Respondent on probation
12 for five years with restrictions necessary to assure public safety. A.R.S. § 32-1452(F).

13 **ORDER**

14 IT IS HEREBY ORDERED that:

15 1. Respondent's license is reactivated upon payment of the renewal fee.

16 2. Respondent is placed on Probation for **five years** with the following terms and
17 conditions:

18 a.1. **Participation**¹. Respondent shall promptly enroll in and participate in the
19 Board's program for the treatment and rehabilitation of physicians who are impaired by alcohol or
20 drug abuse ("MAP"). Respondent's participation in MAP may be unilaterally terminated with or
21 without cause at the Board's discretion at any time after the issuance of this Order.

22 i. Respondent shall submit quarterly declarations under penalty of perjury stating
23 whether there has been compliance with all conditions of MAP. The declarations shall
24

25 ¹ Respondent's MAP participation is retroactive to December 9, 2009.

1 be submitted to the contractor retained by the Board to administer the MAP program
2 ("Contractor") on or before the 15th of March, June, September and December of
3 each year, beginning on or before March, 2010.

4 2. **Relapse Prevention Group.** Respondent shall attend MAP's relapse
5 prevention group therapy sessions one time per week for the duration of this Order, unless
6 excused by the MAP relapse prevention group facilitator for good cause such as illness or
7 vacation. Respondent shall instruct the MAP relapse prevention group facilitators to release to the
8 MAP Contractor, upon request, all records relating to Respondent's treatment, and to submit
9 monthly reports to the MAP Contractor regarding attendance and progress. The reports shall be
10 submitted on or before the 10th day of each month.

11 3. **12 Step or Self-Help Group Meetings.** Respondent shall attend ninety 12-
12 step meetings or other self-help group meetings appropriate for substance abuse and approved by
13 the MAP Contractor, for a period of ninety days beginning no later than either (a) the first day
14 following Respondent's discharge from chemical dependency treatment or (b) the date of this
15 Order.

16 4. Following completion of the ninety meetings in ninety days, Respondent
17 shall participate in a 12-step recovery program or other self-help program appropriate for
18 substance abuse as recommended by the MAP Contractor. Respondent shall attend a minimum of
19 three 12-step or other self-help program meetings per week for a total of twelve per month. Two of
20 the twelve meetings must be Caduceus meetings. Respondent must maintain a log of all self-help
21 meetings. The MAP Contractor will provide the log to Respondent.

22 5. **Approved Primary Care Physician.** Respondent shall promptly obtain a
23 primary care physician and shall submit the name of the physician to the MAP Contractor in writing
24 for approval. The approved primary care physician ("PCP") shall be in charge of providing and
25 coordinating Respondent's medical care and treatment. Except in an *Emergency*, Respondent shall

1 obtain medical care and treatment only from the PCP and from health care providers to whom the
2 PCP refers Respondent. Respondent shall request that the PCP document all referrals in the
3 medical record. Respondent shall promptly inform the PCP of Respondent's rehabilitation efforts
4 and provide a copy of this Order to the PCP. Respondent shall also inform all other health care
5 providers who provide medical care or treatment that Respondent is participating in MAP.

6 a. "*Emergency*" means a serious accident or sudden illness that, if not
7 treated immediately, may result in a long-term medical problem or loss of
8 life.

9 **6. Medication.** Except in an *Emergency*, Respondent shall take no *Medication*
10 unless the PCP or other health care provider to whom the PCP refers Respondent prescribes the
11 *Medication*. Respondent shall not self-prescribe any *Medication*.

12 a. "*Medication*" means a prescription-only drug, controlled substance,
13 and over-the counter preparation, other than plain aspirin, plain ibuprofen,
14 and plain acetaminophen.

15 **7.** If a controlled substance is prescribed, dispensed, or administered to
16 Respondent by any person other than PCP, Respondent shall notify the PCP in writing within 48
17 hours and notify the MAP Contractor immediately. The notification shall contain all information
18 required for the medication log entry specified in paragraph 8. Respondent shall request that the
19 notification be made a part of the medical record. This paragraph does not authorize Respondent
20 to take any *Medication* other than in accordance with paragraph 6.

21 **8. Medication Log.** Respondent shall maintain a current legible log of all
22 *Medication* taken by or administered to Respondent, and shall make the log available to the MAP
23 Contractor upon request. For *Medication* (other than controlled substances) taken on an on-going
24 basis, Respondent may comply with this paragraph by logging the first and last administration of
25 the *Medication* and all changes in dosage or frequency. The log, at a minimum, shall include the

1 following:

- 2 a. Name and dosage of *Medication* taken or administered;
- 3 b. Date taken or administered;
- 4 c. Name of prescribing or administering physician;
- 5 d. Reason *Medication* was prescribed or administered.

6 This paragraph does not authorize Respondent to take any *Medication* other than in
7 accordance with paragraph 6.

8 **9. No Alcohol or Poppy Seeds.** Respondent shall not consume alcohol, any
9 food, or other substance containing poppy seeds or alcohol.

10 **10. Biological Fluid Collection.** During all times that Respondent is physically
11 present in the State of Arizona and such other times as the MAP Contractor may direct,
12 Respondent shall promptly comply with requests to submit to witnessed biological fluid collection.
13 If Respondent is directed to contact an automated telephone message system to determine when
14 to provide a specimen, Respondent shall do so within the hours specified. For the purposes of this
15 paragraph, in the case of an in-person request, "promptly comply" means "immediately." In the
16 case of a telephonic request, "promptly comply" means that, except for good cause shown,
17 Respondent shall appear and submit to specimen collection no later than two hours after
18 telephonic notice to appear is given. The MAP Contractor in its sole discretion shall determine
19 good cause.

20 **11.** Respondent shall provide the MAP Contractor in writing with one telephone
21 number that shall be used to contact Respondent on a 24 hour per day/seven day per week basis
22 to submit to biological fluid collection. For the purposes of this section, telephonic notice shall be
23 deemed given at the time a message to appear is left at the contact telephone number provided by
24 Respondent. Respondent authorizes any person or organization conducting tests on the collected
25 samples to provide testing results to the MAP Contractor.

1 12. Respondent shall cooperate with collection site personnel regarding
2 biological fluid collection. Repeated complaints from collection site personnel regarding
3 Respondent's lack of cooperation regarding collection may be grounds for termination from MAP.

4 13. **Out of State Travel and/or Unavailability at Home or Office Telephone**
5 **Number.** Respondent shall provide the MAP Contractor with at least three business days advance
6 written notice of any plans to be away from office or home when such absence would prohibit
7 Respondent from responding to an order to provide a biological fluid specimen or from responding
8 to communications from the MAP Contractor. The notice shall state the reason for the intended
9 absence from home or office, and shall provide a telephone number that may be used to contact
10 Respondent.

11 14. **Payment for Services.** Respondent shall pay for all costs, including
12 personnel and contractor costs, associated with participating in MAP at time service is
13 rendered, or within 30 days of each invoice sent to Respondent.

14 15. **Examination.** Respondent shall submit to mental, physical, and medical
15 competency examinations at such times and under such conditions as directed by the MAP
16 Contractor to assist in monitoring Respondent's ability to safely perform as a physician and
17 Respondent's compliance with the terms of this Order.

18 16. **Treatment.** Respondent shall submit to all medical, substance abuse, and
19 mental health care and treatment ordered by the MAP Contractor.

20 17. **Obey All Laws.** Respondent shall obey all federal, state and local laws,
21 and all rules governing the practice of medicine in the State of Arizona.

22 18. **Interviews.** Respondent shall appear in person before the Board and its
23 Staff and MAP Contractor for interviews upon request, upon reasonable notice.

24 19. **Address and Phone Changes, Notice.** Respondent shall immediately
25 notify the MAP Contractor in writing of any change in office or home addresses and telephone

1 numbers.

2 **20. Relapse, Violation.** In the event of chemical dependency relapse by
3 Respondent or Respondent's use of drugs or alcohol in violation of the Order, Respondent's
4 license shall be **summarily suspended pending a hearing for revocation**. In the alternative,
5 Respondent may **SURRENDER HIS LICENSE** if he agrees in writing to being impaired by alcohol
6 or drug abuse. A.R.S. § 32-1452(G).

7 **21. Notice Requirements.**

8 **(A)** Respondent shall immediately provide a copy of this Order to all employers and
9 all hospitals and free standing surgery centers where Respondent currently has privileges. Within
10 30 days of the date of this Order, Respondent shall provide the MAP Contractor with a signed
11 statement of compliance with this notification requirement. Upon any change in employer or upon
12 the granting of privileges at additional hospitals and free standing surgery centers, Respondent
13 shall provide the employer, hospital or free standing surgery center with a copy of this Order.
14 Within 30 days of a change in employer or upon the granting of privileges at additional hospitals
15 and free standing surgery centers, Respondent shall provide the MAP Contractor with a signed
16 statement of compliance with this notification requirement.

17 **(B)** Respondent is further required to notify, in writing, all employers, hospitals and
18 free standing surgery centers where Respondent currently has or in the future gains employment
19 or privileges, of a chemical dependency relapse, use of drugs or alcohol in violation of this Order
20 and/or entry into a treatment program. Within seven days of any of these events Respondent shall
21 provide the MAP Contractor written confirmation of compliance with this notification requirement.

22 **22. Public Record.** This Order is a public record.

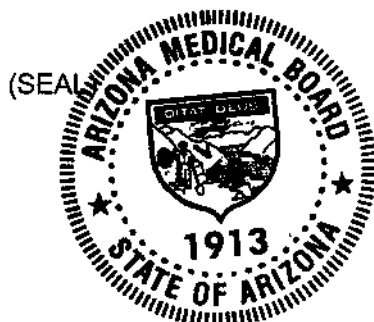
23 **23. Out-of-State.** In the event Respondent resides or practices as a physician
24 in a state other than Arizona, Respondent shall participate in the rehabilitation program sponsored
25 by that state's medical licensing authority or medical society. Respondent shall cause the

monitoring state's program to provide written reports to the MAP Contractor regarding Respondent's attendance, participation, and monitoring. The reports shall be due quarterly on or before the 15th day of March, June, September, and December of each year, until the Board terminates this requirement in writing. The monitoring state's program and Respondent shall immediately notify the MAP Contractor if Respondent: a) is non-compliant with any aspect of the monitoring requirements; b) relapses; c) tests positive for controlled substances; d) has low specific gravity urine drug test(s), missed and/or late urine drug tests, or otherwise rejected urine drug tests; and e) is required to undergo any additional treatment.

24. This Order supersedes all previous consent agreements and stipulations between the Board and/or the Executive Director and Respondent.

25. The Board retains jurisdiction and may initiate new action based upon any violation of this Order.

DATED AND EFFECTIVE this 11TH day of FEBRUARY, 2010.



ARIZONA MEDICAL BOARD

By Lisa S. Wynn
Executive Director

CONSENT TO ENTRY OF ORDER

1. Respondent has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order ("Order"). Respondent acknowledges he has the right to consult with legal counsel regarding this matter.

2. Respondent acknowledges and agrees that this Order is entered into freely and voluntarily and that no promise was made or coercion used to induce such entry.

1 3. By consenting to this Order, Respondent voluntarily relinquishes any rights to a
2 hearing or judicial review in state or federal court on the matters alleged, or to challenge this Order
3 in its entirety as issued by the Board, and waives any other cause of action related thereto or
4 arising from said Order.

5 4. The Order is not effective until approved by the Board and signed by its Executive
6 Director.

7 5. All admissions made by Respondent are solely for final disposition of this matter
8 and any subsequent related administrative proceedings or civil litigation involving the Board and
9 Respondent. Therefore, said admissions by Respondent are not intended or made for any other
10 use, such as in the context of another state or federal government regulatory agency proceeding,
11 civil or criminal court proceeding, in the State of Arizona or any other state or federal court.

12 6. Upon signing this agreement, and returning this document (or a copy thereof) to the
13 Board's Executive Director, Respondent may not revoke the consent to the entry of the Order.
14 Respondent may not make any modifications to the document. Any modifications to this original
15 document are ineffective and void unless mutually approved by the parties.

16 7. This Order is a public record that will be publicly disseminated as a formal
17 disciplinary action of the Board and will be reported to the National Practitioner's Data Bank and on
18 the Board's web site as a disciplinary action.

19 8. If any part of the Order is later declared void or otherwise unenforceable, the
20 remainder of the Order in its entirety shall remain in force and effect.

21 9. If the Board does not adopt this Order, Respondent will not assert as a defense that
22 the Board's consideration of the Order constitutes bias, prejudice, prejudgment or other similar
23 defense.

24 10. Any violation of this Order constitutes unprofessional conduct and may result in
25 disciplinary action. A.R.S. § § 32-1401(27)(r) ("[v]iolating a formal order, probation, consent

1 agreement or stipulation issued or entered into by the board or its executive director under this
2 chapter") and 32-1451.

3 11. ***Respondent has read and understands the conditions of probation.***

4
5 Tim McDowell, MD
6 TIMOTHY M. McDOWELL, M.D.

DATED: 01/08/2010

7 EXECUTED COPY of the foregoing mailed
8 this 1st day of February 2010 to:

9 Timothy M. McDowell, M.D.
Address of Record

10 Sucher & Greenberg, P.C.

11 ORIGINAL of the foregoing filed
12 this 1st day of February 2010 with:

13 Arizona Medical Board
14 9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258

15 Chris Bump

16 Arizona Medical Board Staff